

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

RICHARD GRAVELY,

Plaintiff,

v.

CIVIL ACTION NO. 3:19-00192

ANTHONY MAJESTRO;
MARVIN W. MASTERS; and
BENJAMIN L. BAILEY,

Defendants.

ORDER

This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted Proposed Findings and Recommendations (ECF No. 10) and recommends that the Court dismiss the Complaint (ECF No. 2) for lack of subject matter. Plaintiff Richard Gravelly, who is acting *pro se*, objects to this action being dismissed.

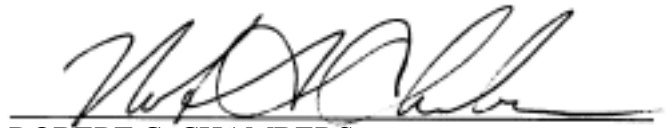
Upon review, the Court **FINDS** that Plaintiff's objection is without merit. Plaintiff argues the Magistrate Judge erred in applying 42 U.S.C. § 1983 to his Complaint because jurisdiction exists by virtue of Fifth Amendment and "Article III standing." However, for the reasons stated by the Magistrate Judge, Plaintiff must allege a basis for subject matter jurisdiction. It is not enough for Plaintiff to assert that Defendants, who are private attorneys, violated the Fifth Amendment. As explained by the Magistrate Judge, there must be a legal basis for this Court to have subject

matter jurisdiction over Plaintiff's Complaint, and Plaintiff has not alleged such a basis in his Complaint. Without subject matter jurisdiction, the Court is required to dismiss the action.

Accordingly, the Court **ADOPTS AND INCORPORATES** herein the Findings of Fact and Recommendations of the Magistrate Judge, **DISMISSES** the Complaint, and **REMOVES** this matter from the docket of the Court.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: December 10, 2019

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', is written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE